

A Willing Suspension of Disbelief

ON the surface, there seemed little reason to expect that the talks between Presidential Adviser Henry Kissinger and North Vietnamese Chief Negotiator Le Duc Tho, which resume in Paris this week, would be any more fruitful than the meetings that had gone before. In Saigon, South Vietnamese President Nguyen Van Thieu dispatched a pair of senior diplomats to Washington to reaffirm his opposition to any peace treaty that does not guarantee the sovereignty of the South. In North Viet Nam, which had been further devastated by U.S. bombing during the two weeks before the New Year, the government issued a detailed and unprecedented public order for evacuation of major cities and industrial sites and the dispersal of factories—suggesting that Hanoi saw little hope ahead.

Square One. Yet, almost inexplicably after its earlier pessimism, the White House seemed to exude a private sense that the peace could be made in Paris this month. Its current mood—involving almost a willing suspension of disbelief—was based in part on some apparent progress in the newly resumed secret technical talks, which were delving into the mechanics of the cease-fire—how large the international control commission should be, for instance, and what powers it should have.

The closely guarded hopefulness was also grounded in a belief that North Viet Nam still stands by its agreement of last October to separate the cease-fire—the military aspects of the conflict—from the eventual political settlement. “We are not back to square one,” insists a ranking U.S. diplomat in Paris. But neither had the Administration returned to the heady optimism of last October when Kissinger, at the peak of

his prestige, made his famous pronouncement that peace was at hand.

Since then, Kissinger's reputation has become somewhat tarnished, and Washington observers have seized every opportunity to search for hints of a rift between the President and his foreign policy adviser—including last week's congenial ceremony at which Nixon awarded a Distinguished Service Medal to Kissinger's longtime deputy, General Alexander H. Haig Jr. But in the end, obviously, Kissinger's reputation—and his place in history—will stand on what finally happens in Paris.

If Kissinger's past performance is any criterion, he has already laid down priorities for discussion with Le Duc Tho and narrowed the issues to fundamentals. Those fundamentals are the release of American war prisoners conditional only upon U.S. withdrawal, a cease-fire and an international observer force of some consequence. The President does not regard the presence of North Vietnamese troops in South Viet Nam as an insurmountable problem. In the eleven days of savage bombings, he strengthened the Thieu regime as much as he could, at a heavy cost to his own international prestige. Nixon would like to achieve a truce before Jan. 20, the beginning of his second term.

Both Blinked. An agreement, if it comes, will probably also include a semantic compromise on Vietnamese unity—as in the preamble to the Washington-Hanoi draft agreement of last October, in which the U.S. reportedly acknowledged the “unity” of Viet Nam while extracting from the North the concession that the country was temporarily not unified. The U.S. is not likely to win a guarantee that Hanoi will refrain from using violence to impose its system on the South. But Washington seeks, at the least, an assurance that Hanoi will respect the DMZ as a temporary border between two sovereign halves of a divided country.

After the U.S. resumed bombing, was it Washington or Hanoi that blinked first and called for renewed negotiations? The answer seems to be that both sides reacted more or less simultaneously to various pressures.

Richard Nixon undoubtedly expected a certain amount of opposition from America's allies to a resumption of U.S. bombing. But his sense of reality seemed to fail him. He was not prepared for the continuing avalanche of outrage and revulsion that his actions set off in practically every Western capital. Last week the Canadian House of Commons unanimously passed a resolution deploring the U.S. air attacks on Hanoi and Haiphong—a form of protest that, as Secretary of State for External Affairs Mitchell Sharp acknowledged, “we

rarely use.” Nor did Nixon expect the bombing to be so costly in American lives and planes; by week's end 16 B-52s had been lost and 98 airmen killed, captured or missing.

Still another factor was the rising fury of many members of Congress against the U.S. bombing and the President's continued failure to explain it or justify it. Both the House and Senate Democratic caucuses last week passed resolutions—the Senate group by 36 to 12—calling for a cutoff of war funds subject only to the return of U.S. prisoners. Senators George McGovern and Mark Hatfield introduced, for the third time, a similar resolution calling for withdrawal from Viet Nam.

Doubts. At the least, the Administration felt, Congress should have held its fire until after the January round of negotiations. “Members of Congress should ask themselves,” declared White House Press Secretary Ronald Ziegler, “if they want to take the responsibility of raising doubts in the minds of the North Vietnamese about the U.S. position, and thereby possibly prolonging the negotiations.” The point might seem more valid if the Administration had not been saying much the same thing for more than three years in an effort to silence opposition—as in September 1969, when the President urged American political leaders to “match the sacrifices” of the nation's fighting men.

It is true that Congress's mood of frustration and anger will not strengthen Henry Kissinger's hand at Paris. It is also true, however, that congressional action may help in the end to force a solution. The bombing of the North has given Thieu a final chance, and now he, too, will be expected to settle.

If Washington was under pressure to resume negotiations, so was North Viet Nam—and not only from the U.S. bombing. The North Vietnamese have been urged by both the Soviet Union and China to try to reach a quick accord. Hanoi could hardly have been encouraged by Soviet Party Chief Leonid Brezhnev's mild references to the bombing in his recent speech at the 50th anniversary of the U.S.S.R.—or by the fact that he sent his son and daughter to meet Tricia and Edward Cox at a U.S. Embassy reception in Moscow last week. The message was clear: Hanoi's sponsors want a settlement.

Thus this week, once again, the last act looms in Paris, though its end remains unwritten. The peace—badly stained, to be sure, by the events of the past month—appears to be underfoot if not exactly at hand. “Things are at a point,” a top Administration official said carefully last week, “where the coming sessions could do it or the coming sessions can go on forever.”



NORTH VIETNAMESE CHILDREN ON DOWNED B-52

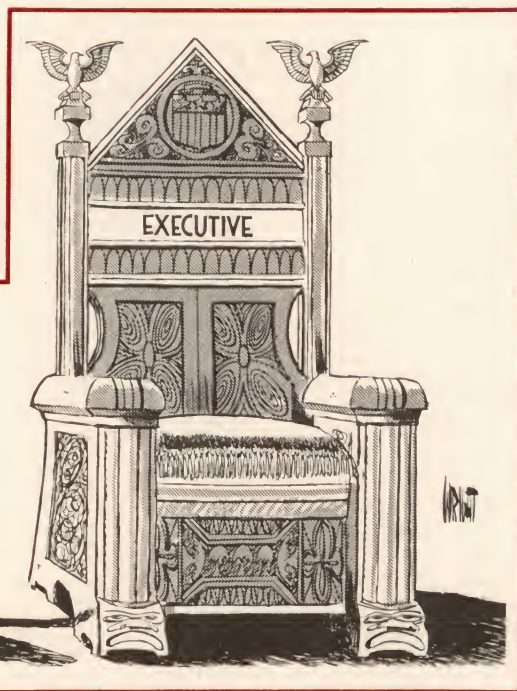
The Crack in the Constitution

THE U.S. is facing a constitutional crisis. That branch of Government that most closely represents the people is not yet broken, but it is bent and in danger of snapping. A Congress intended by the framers of the Constitution to be the nation's supreme policy setter, lawmaker and reflector of the collective will has been forfeiting its powers for years. Now a President in the aftermath of a landslide seems intent upon further subordinating it and establishing the White House ever more firmly as the center of federal power.

Whatever the merits of Richard Nixon's intentions in trying to hold down federal spending or seeking peace in Viet Nam in his own way, his actions represent, among other things, a serious challenge to Congress as an institution. In Viet Nam, he has mined harbors and turned the massive bombing on and off like a spigot with no advance consultation with Congress and with explanation, if at all, only after the fact. He has vetoed congressional ap-

propriations, which is his right. But he has also ignored Congress when it overrode his veto, refusing to spend the money appropriated—which is not his clear right. He has used a brief recess of Congress to "pocket veto" bills, extending a power intended only as an end-of-session action. Even as he centralizes more powers of the Executive Branch within his White House staff, he has drawn a cloak of Executive privilege around his men, refusing to allow key decision makers to be questioned by congressional committees. The trend could be ominous for the future of representative government.

MIAMI NEWS



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As the 93rd Congress convened last week, there were signs that the lawmakers are finally aroused, determined to meet the White House challenge. While Nixon had his landslide, 96% of incumbent Congressmen seeking re-election and 80% of such Senators also won. Predominantly Democratic, they feel they have a mandate of their own.

Although the institutional integrity

life...to safeguard the constitutional role of the House as a strong and influential branch of our national Government."

More concretely, members of both houses expressed stronger sentiment than ever to cut off funds for the Viet Nam War unless Nixon quickly negotiates peace (see story, page 11). Indignant at Nixon's bombing tactics while Congress was in adjournment, Mansfield proposed that it never again adjourn sine die, retaining instead the right to call itself back into special session—a brusque indication that Mansfield does not trust Nixon. Rather than waiting for the President to present his legislative requests, Mansfield and Albert both listed priorities of their own—mainly bills that Nixon had vetoed last year.

Turning to the Judicial Branch for help, more than 20 Senators, including such fiscal conservatives as Mississippi's James Eastland and John Stennis, signed a brief asking a federal court to force Nixon to spend impounded high-

way trust funds, as demanded by the state of Missouri. North Carolina Senator Sam Ervin, the Senate's leading constitutional expert, declared that the Constitution gives "the power of the purse exclusively to Congress," and that presidential impounding of funds is "contemptuous" of both the Congress and the Constitution.

These new demands that Congress reassert itself only dramatize how far the national legislature has fallen; those lost powers were once taken for granted as congressional prerogatives. Nor can the protests be considered merely the customary complaint of the out party over the fact that the other party controls the White House. The decline of Congress began years ago.

Yet a further challenge to congressional rights was posed by Nixon last week as he shifted the powers of key Cabinet members in order to present as almost a *fait accompli* a reorganization of the Executive Branch that Congress has so far declined to approve. He elevated three of his Cabinet appointees to the title of White House Counsellor, and gave them broader authority. Caspar W. Weinberger will not only be HEW Secretary but will also supervise all of the "human resources" functions now scattered in various departments. James T. Lynn, the HUD Secretary, will administer all community-development programs, and Earl Butz, Secretary of Agriculture, has a new mandate over all "natural resources" activities. Democratic Senator Abraham Ribicoff has warned that any attempt by the President to reorganize the Executive Branch by decree poses a constitutional issue.

Stable. In comparison with other national assemblies, Congress still stands out as relatively stable and more representative than most. Tennessee's Republican Senator William Brock may be right in calling it "one of the most remarkable institutions known to man," and Ervin may not be off base in terming it "the most powerful political legislative body on the face of the earth."

Indeed, the individual quality of Senators and Congressmen has never been higher. Yet in relation to the presidency and within the unique American system of balanced arms of Government, Congress has been failing. It no longer effectively checks the President, as required by the Constitution.

TIME is devoting much of the observance of its 50th anniversary to a study of Congress and its decline. Al-

ready TIME has held four regional meetings at which scholars, members of Congress and civic leaders discussed the problem and possible remedies. What is really at stake, explained Editor-in-Chief Hedley Donovan, is "whether a democratic society puts some value on collective wisdom as opposed to centralized individual wisdom, and whether the Congress can make a more constructive contribution to public policy."

One Way. While not all participants in the meetings agreed, the current state of the Congress was often described in dire terms. Oregon's Republican Senator Bob Packwood saw Congress as being in danger of slipping into the role of a mere "vetoing agency," with ability only to object to presidential initiatives. That would give the U.S. a Government described by Packwood as "very close to an Executive monarchy." The University of Pittsburgh's Charles Jones suggested that "Congress may be on a slide down that 100-ft. razor blade, with no way to pull itself back." Ribicoff, who has served both on Capitol Hill and as a Cabinet member, said that "Pennsylvania Avenue has become a one-way street," with all the power flowing from a White House that "invariably lies to the Congress, massages it and seduces it to get its will."

TIME Congressional Correspondent Neil MacNeil points out Gallup polls indicating that 57% of Americans cannot name their Congressman, and only 19% can cite a single thing he has done. Congress has slipped so badly, says MacNeil, that it may soon be necessary "to stuff a Congressman and stick him in the Smithsonian among other extinct species, so that future generations will know what a Congressman looked like."

In its earliest days, Congress had less cause to quarrel with the White House; elected indirectly by what was then a truly independent electoral college, the President existed almost solely to carry out the congressional will. He was regarded as a national administrator, and did not even dare veto a bill he personally opposed unless he believed that signing it would violate his oath to uphold the Constitution. The early fights came instead between the Congressmen, elected by popular vote in their home districts, and the Senators, selected by state legislatures.

The House may have been, as De Tocqueville said, "remarkable for its vulgarity and its poverty of talent." But it was dominant, having the sole power to initiate revenue legislation and impeach federal officials, including the President. The Senate's role, as Alexander Hamilton described it, was to "correct the prejudices, check the intemperate passions and regulate the fluctuations" of the more democratic House. Actually, the Senate was generally too cowed by the popular clout of the House—and too conceited—to object. It was largely the House, through its influential Speaker Henry Clay, that

led the U.S. into the War of 1812—despite the reluctance of President James Madison. Clay was the kind of autocrat who, upon leaving a party at sunrise and being asked how he could preside over the House that day, replied: "Come up, and you shall see how I will throw the reins over their necks."

The erosion of House dominance began with the grass-roots movement that elected Andrew Jackson in 1828. Jackson conceived the argument that he was the only representative of all the people. He also introduced patronage, thereby enhancing the role of the Senate, which alone had the right to approve or reject presidential appointees. The great debates over slavery that pre-

ceded the Civil War were staged in the Senate rather than the House, which was fragmented over the issue. Yet even Abraham Lincoln, who emancipated slaves by fiat, sometimes deferred to Capitol Hill. Said he: "Congress should originate, as well as perfect, its measures without external bias."

The Civil War's divisions helped create a strong two-party system in which a succession of powerful House Speakers used positions of party leadership to restore the supremacy of that chamber. These men—first James G. Blaine, then Samuel J. Randall, John G. Carlisle and finally Tom Reed—appointed committee chairmen, dictated legislative priorities, and then deter-

Uncle Joe Cannon: "Iron Duke" of Congress

"I am goddamned tired of listening to all this babble for reform. America is a hell of a success."

—Joseph G. Cannon

NOTHING annoyed "Uncle Joe" Cannon more than the idea of change, and during the eight years he ruled Congress as Speaker of the House, most calls for reform were icily snubbed. From 1903 to 1911, Congress under Cannon was at the height of its power, intimidating—and thwarting—even so aggressive a President as Theodore Roosevelt. Snorted Cannon at one piece of forest legislation: "Not one cent for scenery." Wrote a contemporary scholar: "There is some room for saying Cannon is even more powerful than the President of the United States. Today, the Speaker is the absolute arbiter of our national legislation."

Cannon's influence was built on three great weapons, all inherited from Speakers of the past. First, he controlled all committee assignments. Second, only Cannon could recognize members on the floor. Finally, Cannon was chairman of the Rules Committee, which oversaw the flow of legislation. Both careers and legislation depended on his whim. He was called the "Iron Duke of American politics."

Tough, smart and profane, he ranks with Henry Clay, Thomas Reed and Sam Rayburn among the most powerful Speakers ever. A bred-in-the-bone Republican from Illinois, he was first elected to the House in 1872—a century ago—and served a total of 46 years. Above all, he was a party loyalist. It was that quality, coupled with his own complete honesty and steely determination, that brought him through the ranks, first to the chairmanship of the key House Appropriations Committee, then to the Speakership. Arbitrary and cantankerous, piercing gray eyes flickering from a ruddy, chin-whiskered face, he might expectably have been hated by his colleagues. He was not. At



the end of his first term as Speaker, Republicans and Democrats alike joined to give him a loving cup as a "mute token of our affection."

When the attacks on him began, they were directed more at his hostility to progress than at the man himself. In 1909, 1910 and 1911, in a series of bitter confrontations, his three great powers were stripped away and Cannon himself was forced to step down. It was the beginning of the long erosion of congressional power. Some current suggestions for reform have an unmistakable whiff of Cannonism to them, notably Carl Albert's plan to exact "loyalty oaths" from new Democratic members of the Rules Committee. Cannon himself would have been horrified by such halfway measures. When he retired from politics in 1923 (and became TIME's first cover subject), TIME summed him up as "the supreme dictator of the Old Guard. Never did a man employ the office of Speaker with less regard for its theoretical impartiality." In the 93rd Congress, a touch of Cannon's toughness—if not his cantankerous complacency—might be an asset.

CULVER

mined the fate of their bills by the simple power of whom to recognize on the floor. By 1890, Reed was so contemptuous of the White House that he spurned presidential invitations to discuss his congressional plans. It was Reed who told a colleague in 1892: "I have been 15 years in Congress and I never saw a Speaker's decision overruled, and you will never live to see it either." The apex of House rule was reached under TIME's first cover subject, Speaker Joe Cannon (see box, page 13).

The first serious 20th century assault on congressional power was made by Theodore Roosevelt, who took the novel step of outlining his own Square Deal program, although he had no great success in getting it enacted.

Without asking Congress, he intervened to protect the Panama Canal Zone from Colombian forces, boasting later: "I took the Canal Zone and let Congress debate, and while the debate goes on, the Canal Zone does too." Yet when his successor, President Taft, had the temerity to have a bill drafted and presented to Congress, House Democrats haughtily objected to the notion that they should consider any legislation "drawn at the instance and aid of the President and declared to be the President's bill."

Woodrow Wilson was the first President to enjoy much success with a domestic legislative program of his own creation. But in foreign affairs, the field now so completely a presidential province, he was humiliated by the Senate's post-World War I rejection of his proposed League of Nations. Complained Wilson bitterly: "Senators have no use for their brains, except as knots to keep their bodies from unraveling." No President thereafter was able to mount a serious challenge to Congress until Franklin Roosevelt, who was aided immensely by the crisis urgencies of the Depression and World War II. Roosevelt appealed directly to the people in his fireside chats; radio, and later television, did much to focus the nation's attention on the presidency.

Acolyte. The notion of the Congress as the originator of legislation was reversed by Roosevelt, who began summoning Democratic leaders of both chambers to his office for weekly instructions. This made them political lieutenants of the President. Yet Congress could rebel, as when he tried to pack the Supreme Court. Strong congressional leaders still carried heavy weight after F.D.R., notably Lyndon Johnson in the Senate and Sam Rayburn in the House, but they held a more cooperative attitude toward the White House. Declared Rayburn at one point: "I haven't served *under* anybody. I have served *with* eight Presidents."

With the outbreak of World War II, the President became a dominant international figure, and Congress assumed more and more the status of acolyte. The cataclysmic cloud of the atomic bomb immeasurably enhanced the life-and-death powers of the President in world affairs. Although there had been some legislative protests when various Presidents had ignored the constitutional war-making powers of Congress by sending troops briefly into Latin American republics in the 1920s, there was little complaint when Harry Truman committed U.S. forces to Korea and Dwight Eisenhower ordered Marines to Lebanon. John Kennedy kept Congress ignorant of his plans to



"Southern chivalry—argument v. clubs."
CONGRESSMAN ATTACKING SENATOR SUMNER (1856)



"King Andrew the First."

PRESIDENT ANDREW JACKSON (1832)

T. B. R.



THE CZAR IS DEAD.
LONG LIVE THE CZAR.

CONGRESSMAN THOMAS REED (1894)

invade Cuba, and Lyndon Johnson merely informed Congress that he was sending troops in huge numbers into Viet Nam. The Gulf of Tonkin resolution, giving Johnson a free hand and later repealed under President Nixon—but without any practical effect in either case—only illustrated the congressional impotence in matters of war. For practical purposes, Presidents have moved away from the treaty-making processes, using Executive agreements and grants-in-aid, thus undercutting the Senate's old dominion in this field.

It is, of course, the long frustration of the Viet Nam War more than any other factor that has fed the growing reaction against presidential power. Indeed, there has been an ironic turnabout by academics and liberals who once exoriated members of Congress as moss-backed obstructionists retarding the social legislation of F.D.R., Truman and Kennedy. Now such critics attack Congressmen for acquiescing in the war policies of Johnson and Nixon, and for not obstructing more. The rationale of legislators has long been that the President "knows better" than they about a complex problem like Viet Nam through the Executive's intelligence and military bureaucracy. But as the Pentagon papers suggested, all of the expertise does not necessarily yield sound policy; the

decision-making apparatus can achieve a blind momentum of its own. Worse, the White House may deceive Congress about its true intentions. Congressional intervention might well have averted, or shortened, some of the travail—and the need to make a case for Congress might have improved the quality of Executive decision making.

Despite its doubts, Congress has continued to support the war through its military appropriations, partly because it has completely lost its grip on the nation's budget-making machinery. This, even more than the loss of war powers, may be the most debilitating congressional deference to the Executive Branch. Congress once determined, item by item, what the Government should spend for what purpose, then du-

tifully raised the revenue to do so. It has attempted to deal with the growing complexity of spending and taxing by creating a multiplicity of committees and subcommittees. As a result, Congress has no overall view of either function, and thus no means of rationally setting priorities. The Bureau of the Budget, created in 1921 to aid both Congress and the President, has been captured by the Executive, reducing Congress to the role of making minor alterations in a hand-me-down budget produced by each Administration.

TIME's regional meetings produced some intriguing insights into the general causes of the dwindling influence of Congress. Maryland Senator Charles Mathias claims that Congress is so nar-

rowly concerned with each single piece of legislation that it ignores a broader perspective and fails to notice when it is "at a Rubicon, facing a great constitutional watershed." Correspondent MacNeil agrees that the legislators "live, like many people, on the razor edge of right now. They are parochial in time; they lack a sense of the past or a care for the future."

One reason for this, as Ohio's Republican Senator William Saxbe sees it, is that "Congress has declined into a battle for individual survival" in which few members think about the welfare of Congress as a whole. Each reasons that "if you don't stick your neck out, you won't get it chopped off." Thus when a decision is tough, argues Oregon's Packwood, Congress may be more than willing to pass the buck to the President. "We can delegate powers to the President, then sit back and carp or applaud, depending on whether what he does is popular or unpopular. If it's unpopular, we can say, 'What a terrible thing. We wouldn't have done that.'"

Berkeley Political Scientist Nelson Polsby, author of *Congressional Behavior*, finds legislators hampered simply by their need to get re-elected. While the public expects Congressmen to be generalists, competence in a complex age requires specialization—a dilemma Polsby would resolve by urging constituents to expect less "omnicompetence" in their representatives so they can con-

"portray themselves as the gallant fighters against the manifest evils of Congress; they run for Congress by running against Congress." As Congress thus loses prestige, its effectiveness can decline in a self-perpetuating spiral of criticism.

Among the specific areas of congressional decline:

BUDGET. Despite political charges that Congress has been spending the Government into heavy debt, it has actually altered the Administration's budget in recent years by less than 5%. Saxbe illustrated congressional inadequacy in analyzing just one part of the budget: that of the Defense Department, which spends more money on the staff to prepare its budget alone than the whole Congress spends for all of its operations. Against the Pentagon, the Senate Armed Services Committee has only 15 staff members, who, says Saxbe, also "spend a lot of their time campaigning for the committee members, running their offices and hauling their wives around."

Ribicoff, among others, makes a persuasive proposal: Congress should have its own budget bureau to keep up with the overall spending totals, as well as to analyze specific funding needs and set up general priorities. Tennessee's Brock, a conservative who helped organize the Nixon re-election campaign among youth, has introduced a bill to set up a joint House-Senate committee



"Who is steering, anyway?"

TEDDY ROOSEVELT & SPEAKER CANNON (1905)



"The greatest deliberative body in the world."

F.D.R. & COOPERATIVE SENATORS (1938)



"Going to talk to the Boss."

WOODROW WILSON PUSHING LEAGUE (1919)

centrate on their specialized committee work. Polsby considers committee competence the key to a strong Congress.

Another dilemma working to the disadvantage of Congress is described by University of Rochester Political Scientist Richard Fenno, who wrote *The Power of the Purse: Appropriations Politics in Congress*. Fenno claims that most people "love their Congressmen, but not Congress." It is easy to like a legislator for his personal style and policy views, Fenno notes, but difficult to admire a Congress because it is expected to solve national problems—and it rarely can. Moreover, many Congressmen

that would propose a legislative budget, apart from the Administration's request, and create its own priorities. The joint committee, moreover, would periodically review the programs it has funded to see if they are working as intended. But Scholar Ralph Hutt worries that such a centralized committee would be easier for a President to control, and that "these people elected by no national group would have no responsibility to anybody."

IMPOUNDING. There is no more direct challenge to congressional power than Nixon's refusal to spend money Congress has appropriated. This issue

apparently is headed for a momentous collision in the courts. Presidents have refused to spend funds in the past as far back as Thomas Jefferson, who withheld some \$50,000 that had been authorized for gunboats to patrol the Mississippi River. But this was generally done then because the need had passed or a project cost less than had been expected. Nixon has used this device as an expanded veto power, impounding some \$6 billion in water-pollution control money and \$5 billion in highway funds. Moreover, he asked Congress for the right to select which appropriations he could reject, in an effort to keep spending within \$250 billion this fiscal year—and the House meekly agreed. Mathias claims the House did so because it saw the matter "as a mere housekeeping item," while Ribicoff termed the Senate's rejection of this request "its most significant action in modern times." Approval would have given the President unprecedented authority to thwart congressional will.

PRIORITIES. Congress has fallen into the habit of mainly reacting to the President's legislative requests, rather than setting its own agenda. Huitt argues that Congress simply does not have the machinery to do so now. Ervin distrusts any effort to change that, contending that Congress is too disparate a body, and each member would have his own priority preferences. "I would set a priority on moonshine liquor," he quips, "because a lot of my constituents still make it up in the hills." As Mansfield and Albert indicated last week, current attempts to set legislative priorities are taking place within the caucuses of the controlling Democratic Party.

STAFFS. Congressional committees, as well as most legislators, have inadequate staffs to compete with the Administration and what some consider a fourth branch of Government: the huge bureaucracy that neither the President nor Congress can control. Despite a 1946 law requiring all committees to hire only professional staff experts, many still use political pals or unskilled generalists. Minnesota's Democratic Senator Walter Mondale noted that when he held a hearing to argue against more aircraft carriers, it was a case of "myself and one college kid versus the U.S. Navy and everybody who wanted to build a carrier, or who had a friend who was an ensign or above. We foolishly handicap ourselves by failing to properly staff ourselves."

General William Westmoreland, on the other hand, assailed Congressmen for not even using Administration-supplied information at committee hearings. He charged that they do not do their homework and are more interested in "stagmanship, self-aggrandizement and demagoguery" than in analyzing

"extremely complex" issues. TIME's MacNeil contends that legislators are afraid to hire more help because of adverse public reaction, but that if they forthrightly stated their need, the expense would be accepted.

INFORMATION. Congress needs more help from computers in order to retrieve information and analyze complex statistics. Brock noted that twelve state legislatures have such equipment, while the University of Pittsburgh's Charles Jones (*Minority Party Leadership in Congress*) estimated that Congress has "the computer capability, roughly, of the First National Bank of Kadoka,



MONDALE, ERVIN & HARRIS IN CONFERENCE



CONGRESSMEN O'NEILL & DRINAN



SENATORS KENNEDY & ERVIN IN CAUCUS

S. Dak." Declared Mondale: "Whenever I am on the side of the Administration, I am surfeited with computer print-outs that come within seconds to prove how right I am. But if I am opposed to the Administration, they always come late, prove the opposite point, or are on some other topic. He who controls the computers controls the Congress." Congress should be provided with a modern computer capability.

LEADERS. Despite the new spirit shown by Mansfield and Albert, the leadership in both chambers was widely criticized as too conciliatory or gentlemanly to be effective. What is required, argued Correspondent MacNeil, is some of "the arrogance" of past taskmasters who ran Congress with heavy hands. Jones suggested that there is perhaps no greater congressional need than to strengthen the leaders of each party

within Congress and thus pin down responsibility. He cited Woodrow Wilson's dictum that "somebody must be trusted, in order that when things go wrong it may be quite plain who should be punished."

SENIORITY. The academic experts generally argued that the seniority system of selecting committee chairmen has been attacked much too broadly as a central evil when in fact it is a minor matter. Henry Hall Wilson, president of the Chicago Board of Trade, even contended that if the seniority system were abolished, the same men would be



SPEAKER ALBERT & AIDE AT OPENING

chosen as leaders. "Why? Because they are abler." Senator Ervin conceded that the system is bad in some respects, "but the only thing that is worse is every alternative that has ever been proposed for it." Such views were challenged by Massachusetts Congressman Robert Drinan, who charged that seniority and some other House rules produce "tyranny and tyrants." Arizona Congressman Morris Udall said wryly: "My God, this is the only institution on earth where you can lead a 'youth rebellion,' as I was accused of doing, at age 47."

Udall attacked the system as giving "national power to people who are responsible to a limited constituency; Wilbur Mills, one of the most able men in Congress, is not chairman for Little Rock, but for Los Angeles and Long Beach and Prescott, Ariz." Udall has proposed a plan for the majority-party caucus to elect committee chairmen from among the three senior members

on each committee, and by secret ballot. In sum, it may well be necessary to drop or at least modify the seniority system in order to encourage more legislators to develop expertise, with the expectation of gaining influence sooner.

RE-ELECTION PRESSURES. The need for Congressmen to be constantly seeking re-election was deplored, although some scholars argued that it actually keeps them better informed on the desires of their constituents than any other federal officials. Also assailed was the dependence of many legislators on campaign contributions from donors with potential special interests. Mondale termed this "the dark side of the political moon, tragic and dangerous." Saxbe said a donor almost always expects a return favor. "It is like the boy who buys a girl a beer and then expects the right to squeeze it out of her." There is a strong need for public funding of campaigns.

SECRECY. While deplored the spreading use of Executive privilege by recent Administrations, the panelists could suggest little that Congress can do to check it. Another problem, of course, is the

THE PRESS. Panelists criticized the press for its overconcentration on the White House, its relatively superficial coverage of Congress and its oversimplification of the reforms necessary to make Congress more effective. "If Henry Kissinger is the best national journalists can do for a sex symbol in national politics," noted Jones, "then they have not completed the search." Mondale claimed that reporters follow a "star system," and fail to spot talented and courageous newcomers, many of whom quit politics when they see no one supporting their efforts.

Other possible reforms would involve improving the public image of legislators by tightening conflict-of-interest rules, including the banning of outside work (the \$42,500 annual salary, plus expense allowance, should be adequate to make the job worthy of a member's full time). The overseer functions of committees should be emphasized, to determine whether the congressional intent of programs is being carried out by the Executive Branch.

Some argue that the problems on the Hill are psychological, having to do with the sheer will of Congress to make itself felt. Perhaps more than any specific set of reforms, the Congress needs only to use more fully the tools and potential it has long possessed. "Reforms are not going to make any difference unless there is the will in Congress to want to govern," contends Packwood. "We can set policy, we can take back the powers if we want. But we have said 'can't, can't, can't' so long it has become an excuse for 'won't.'" Sums up MacNeil: "I have never seen Capitol Hill so alive to its problems, so anxious to begin the restoration. Yet whether that will can be

sustained for an extended time—time enough to accomplish the ends—is debatable. Carrying the hard commitment for the necessary months and years is not easily done."

In an age of growing complexity—and in an era when momentous global decisions might have to be made in an instant—a strong presidency is necessary. But not a presidency made strong with the usurped powers of another branch. As a former Senator and Congressman, it seems strange that Nixon does not fully appreciate this. The shape in which Congress emerges from its crisis, whether regaining its lost luster or continuing to recede, to function as a kind of windy Washington side-show, may be determined by what the public demands of it. Ultimately, the nation gets the kind of Congress it deserves. As Charles Jones observes: "Whatever is wrong with Congress may also reflect ills in the society. And if the legislature fails, democracy fails."



SENATORS CHURCH & JACKSON CHAT, THEN HUDDLE IN STEERING COMMITTEE MEETING



SENATE MAJORITY LEADER MANSFIELD

excessive secrecy of Congress itself. The House Appropriations Committee opened only 33 of its 399 meetings last year, the House Ways and Means Committee closed 48 of its 76 sessions, the Senate Finance Committee held 85 of its 110 meetings behind closed doors and the Senate Armed Services Committee went into secret session in 109 of its 152 meetings. It is at committee meetings that most of the key decisions of Congress are made. Declares John Gardner, head of Common Cause: "These matters are secret only to the public. The Public Works Committee holds no mysteries for the highway lobby, nor the Agriculture Committee for agri-business. The deliberations of the Ways and Means or Finance Committee are accessible to a whole swarm of loophole lizards." More of the crucial committee deliberations should be opened to the press in order to improve public understanding of congressional action and problems.

A Cast of Characters for the 93rd Congress

OVER the next two years, the leaders of the 93rd Congress face not only the usual legislative tasks but also the enormous job of revitalizing the Congress itself. The effort will enlist a wide variety of newcomers and veterans. Among those who will play the principal roles in that effort:

SENATE MAJORITY LEADER MIKE MANSFIELD, 69, has bossed the Senate since Lyndon Johnson shifted to the Executive Branch in 1961, but his style is far less forceful and flamboyant. A quiet, studious Montanan, he has a deep and abiding respect for the individual rights and prerogatives of each Senator that is both his main strength and his main weakness. Says one colleague: "Mansfield tries to lead within the confines and strictures of this goddam institution, but we need stronger leadership." His Republican counterpart, Minority Leader Hugh Scott of Pennsylvania, has been similarly criticized. A pipe-puffing moderate, Scott can grandstand if necessary but prefers low-key methods. He and Mansfield are good friends and work well together, despite certain differences on the Administration and the Viet Nam War. Mansfield, a harsh critic of the Nixon Administration and an outspoken foe of the Viet Nam War, now seems intent on restoring Congress's position vis-à-vis the Executive. He insists that reform is inescapable. Criticized for his methods, Mansfield once replied: "I am what I am, and no title, political face lifter or image maker can alter it."

SPEAKER OF THE HOUSE CARL ALBERT, 64, more than any other single Congressman will bear blame or credit for the 93rd Congress's record. Great things were expected of the Oklahoma Democrat when he was first elected Speaker two years ago. He proved to be something of a disappointment. Serious, short, a graduate of both the elementary school of Bug Tussle, Okla., and Oxford, he is one of the brainiest men in Congress but seemed to shrink from the head knocking a strong House leader must perform. Now he promises new toughness; he intends to demand total loyalty from Democrats on the Rules Committee, and he is showing signs of stiffening on the Viet Nam War issue. If Congress is to change, Albert must lead.

HOUSE MINORITY LEADER GERALD FORD, 59, a Nixon loyalist, faces the difficult task of pushing the President's legislative programs through the House in the face of Democratic voting superiority. A major clash will come early over Viet Nam; Ford's task is to hold Republicans in line behind Nixon's policy and to woo Democratic support as well. A Congressman who has represented Michigan since 1948, ex-Football Star Ford is known for his willingness to seek consensus rather than discord as well as for his feelings that Republicans must offer solutions of their own rather than simply blind opposition to Democratic initiatives.

HOUSE MAJORITY LEADER THOMAS ("TIP") O'NEILL, 60, is a quick-witted, pragmatic Massachusetts liberal who has bridged the gap between the old politics and the new—and made no enemies in the process. Perhaps the best-liked man in the House, the successor to the late Hale Boggs has served in Congress since 1953 (when he succeeded John F. Kennedy as the Congressman from Cambridge). He is an acknowledged expert on parliamentary procedures. His popularity and skills will be put to the test in this session: he will hold a key position in the fight to create an effective party alternative to proposals from the White House. Once a hawk, O'Neill turned dove in 1967 and is expected to lead the House against the war if the peace talks fail.

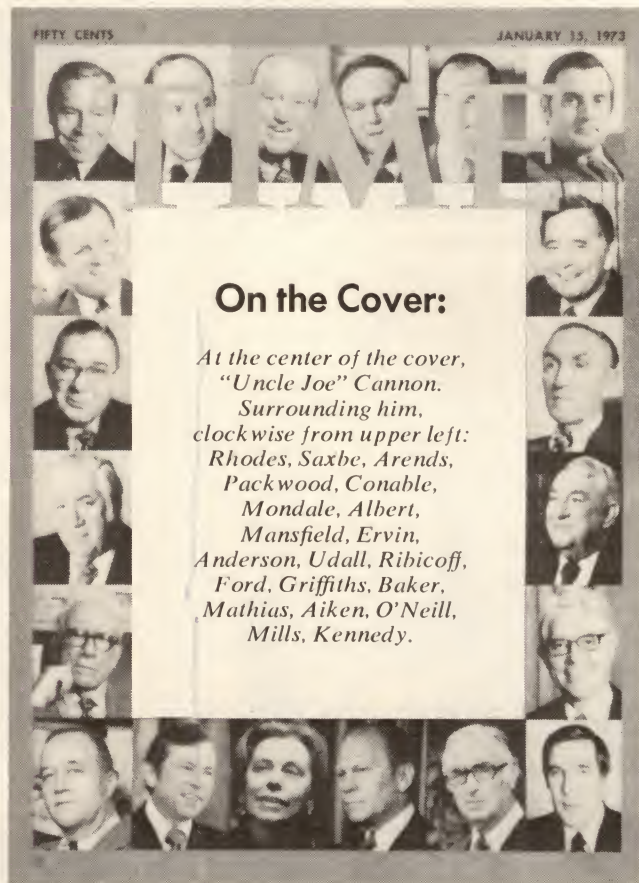
SENATOR GEORGE AIKEN, 80, is a plain-talking, sharp-thinking Vermont Republican who has served in the Senate since 1941 and has definite views on the predicament of Congress. During the Pentagon papers affair, he noted caustically that "for

a long time, the Executive Branch has tended to regard Congress as a foreign enemy—to be told as little as possible." Aiken is the senior Republican member of the Foreign Relations Committee; he is in the vortex of the struggle between Administration and congressional critics on Viet Nam. Old Friend Mike Mansfield says that Aiken is neither a hawk nor a dove but a "wise old owl," and there are indications that Aiken may well take the field against his party's President if the war does not end soon.

REPRESENTATIVE JOHN ANDERSON of Illinois, 49, the senior Republican on the Rules Committee, has a solid reputation as one of the most eloquent and outspoken members of the House. A firm advocate of civil rights who is chairman of the party caucus, he looks with distaste on the present state of Congress: "I feel I am a creature and a child of Congress," he said last week, "and when I see what has happened to this body, it pains me beyond words."

REPRESENTATIVE LESLIE ARENDS, 77, has been Republican Whip for 30 years and is one of Gerald Ford's key aides in pushing Nixon legislation through the House. Popular and gregarious, an unsung parliamentary tactician of confounding skill, he blocked a 1971 House vote on the Mansfield Amendment, which called for withdrawal of all U.S. troops from Viet Nam within six months. For all his enthusiasm, however, the Illinoisan is frank about G.O.P. problems when they occur. "The way things are going," he said during a low point, "we couldn't put the Ten Commandments into the bill."

SENATOR HOWARD BAKER, 47, is a brash and bright Republican from Tennessee who waited only three years after his first election in 1966 to challenge Hugh Scott for the party's Senate minority leadership. He lost, but gained stature in defeat.



A good friend of Richard Nixon, Baker seconded his nomination in 1968 and was mentioned as a possible 1972 running mate. A son-in-law of the late Everett Dirksen, Baker is loudly antibusing—"a grievous piece of mischief"—but is a strong backer of open housing, a member of the Commerce and Public Works committees.

REPRESENTATIVE BARBER CONABLE, 50, is one of those Congressmen little known to the public but highly regarded by colleagues in the House. A moderate from upstate New York, he is one of the ablest Republicans on the Ways and Means Committee and has fought hard for legislation requiring complete campaign-funding disclosures. He was the leading Republican backing the Legislative Reorganization Act of 1970. His ties to the White House are strong; Conable is an important Nixonian voice in the ranks of Ways and Means.

SENATOR SAM ERVIN, 76, a master of constitutional law who heads the powerful Government Operations Committee, is a Democratic battler for individual rights with a blind spot for blacks. The contradiction is in part explained by his North Carolina origins. He is the most adept Senate story spinner since Alben Barkley. Ervin is deeply concerned over the invasion of privacy involved in federal wiretapping. He is a major figure in the fight against Administration attempts to diminish freedom of the press. He is also a leader in the crusade to restore the power of the purse to Congress, an important part of the search for congressional reform.

REPRESENTATIVE MARTHA GRIFFITHS, 60, is hardly to be typecast as a Women's Libber, but she was far more effective than better-known lawmakers such as Shirley Chisholm and Bella Abzug in getting the women's equal rights amendment passed in 1970. Mrs. Griffiths, a ten-term Democrat from Michigan, is a tough-minded, independent legislator who has displayed little interest in congressional reform. The first woman ever to sit on Ways and Means, she is one of the most influential members in the fight to strengthen Congress's powers to control and direct Government spending.

SENATOR EDWARD KENNEDY, 40, the heir apparent to national Democratic leadership, will be in the forefront of congressional confrontation with the President over the next several years. Considerably sobered by Chappaquiddick in 1969 and his loss of the Senate Whip's job to West Virginia's Robert Byrd in 1971, he is proving a highly adept Senate strategist. Last week Kennedy helped engineer an enlargement of the Democratic Steering Committee, clearing the way for more liberals to move into important committee jobs. Possessor of a flawless liberal voting record, his colleagues say he is a far abler Senator than is generally known.

SENATOR CHARLES MATHIAS of Maryland, 50, is a leading figure in a group of a dozen or so Republican moderates generally referred to by White House aides as "those bastards." The so-called Wednesday Club over the past four years has often carried enough weight to offset the uneasy coalition of conservative Republicans and equally conservative Democrats that generally supports the President. A veteran of four House terms, Mathias is deeply concerned with the role of Congress. As co-chairman (with Senator Adlai Stevenson III) of a series of bipartisan hearings on the problem, Mathias said: "Congress has become a third- or fourth-class power, a separate and thoroughly unequal branch of our national Government."

REPRESENTATIVE WILBUR MILLS, 63, chairman of Ways and Means, is a quiet Arkansas Democrat who holds immense power. Normally intensely jealous of the constitutional powers of the House against the incursions of the Senate or the President, Mills last year pushed through a bill (later defeated in the Senate) to transfer much of Congress's remaining powers of the purse to the Executive. Mills acted out of deep concern over what he felt was a runaway budget, but his col-

leagues were chagrined. His vagueness is legendary. "Wilbur is the greatest advocate in the House," said a colleague, "once he decides what to advocate."

SENATOR WALTER MONDALE, 44, is a quiet, impeccably liberal Minnesotan who in the eight years since he was appointed to Hubert Humphrey's old seat has won a reputation as one of the Senate's soundest, solidest younger members. He has been important in educational legislation, and this session won a place on the Finance Committee. Energetic and ambitious, Mondale is already being touted as a rival to Edward Kennedy in 1976.

SENATOR BOB PACKWOOD, 40, a hard-working, first-term Oregon Republican, is one of his party's most liberal figures. Among his primary concerns are family planning, legalized abortion, ecological programs, and congressional reform. His proposals for overhauling Republican seniority procedure will be discussed this week. If reform comes to be an area of significant action during this session, Packwood will probably emerge as one of its most articulate spokesmen.

REPRESENTATIVE JOHN RHODES, 56, is a staunchly conservative Arizonan virtually unknown outside the House. Inside, he stands as one of its most important power brokers. Soft-spoken and unostentatious, Rhodes has chaired the House Republican Policy Committee for eight years, is Gerald Ford's link to the G.O.P.'s right wing and a firm supporter of Administration policy.

SENATOR ABRAHAM RIBICOFF, 62, makes no secret of his anger with the President's attempts to demean the authority of the Congress: "The President and those who serve under him use Congress as a tool, and Congress is a willing tool, massaged and often seduced by the Executive Branch." A Connecticut Democrat who has served as judge, Cabinet officer, Governor and Congressman, Ribicoff is an activist member of the powerful Finance Committee, has worked hard on behalf of highway safety, urban development and conservation, and was one of the staunchest proponents of Nixon's welfare reform legislation—until a year ago, when he said that he was giving up the fight because the Administration did not seem interested in its own program. Pressed to re-enlist in the fight with promises of full support, he rejoined the campaign—only to be torpedoed at election time when the Administration once again lost interest.

SENATOR WILLIAM SAXBE, 56, is an irreverent Ohio Republican who, after generally supporting Nixon during most of his first term, castigated the President ("he has left his senses") over the resumption of the bombing last month. In his first term, Saxbe and Senator Alan Cranston shepherded a major reform through the Senate. They devised the "two-track" system—a technique that sidetracks any legislation that promises to provoke difficulties while allowing less controversial bills to move briskly through the Senate's mills. His outspokenness is rare in the Senate: after several months in Washington, he called the Senate "ridiculous" and later mused that "the trouble with Nixon is those two Nazis [Haldeman and Ehrlichman] he keeps around him." He displayed little respect for Nixonian legislation: "The program this Administration is pushing is appropriate for Herbert Hoover's day."

REPRESENTATIVE MORRIS ("MO") UDALL, 50, has represented Arizona since 1961, when his brother Stewart left Congress to become Secretary of the Interior. An energetic outdoorsman and one of the House's leading conservationists, Udall broke with Lyndon Johnson over Viet Nam in 1967, hurt his chances to rise to formal party leadership when he made an abortive run for the Speakership against John McCormack in 1969. Another Democratic reformer, Udall has focused on the seniority system, which he believes is largely responsible for making the House unresponsive and ineffective.

THE ADMINISTRATION

"Tattletale Gray"

The Federal Bureau of Investigation likes to present itself to the public as a well-oiled crime-fighting monolith that functions without so much as a ping. If that image was never entirely accurate in J. Edgar Hoover's day, it is even less true now under the bureau's acting director, L. Patrick Gray, 56. More and more the bureau's internecine troubles have been surfacing—mainly because Gray's own agents are privately protesting his policies. The most recent and glaring example: Gray's reshuffling of nine veteran members of his headquarters staff, which, among other things, wiped out the bureau's longstanding Crime Records Division. For years it was an elite outfit that served Hoover as a liaison with Congress and the press.

Gray insists that the men are being given jobs that are every bit as important as their previous ones, and that several of the assignments are promotions. However, at least two of the men chose to resign. Gray claims that he is getting rid of "Hooverites," yet some agents accuse him of retaining the most hated of Hoover's hard-line policies.

Among these policies are the harsh disciplinary measures that agents consider unjust; the persistence of power cliques that virtually run the bureau; the perpetuation of Hoover's notorious "blacklist" of people to be shunned, socially and otherwise, by FBI agents; the maintenance of so-called penal colonies, field offices to which agents in disfavor are banished; and leaking FBI information to embarrass officials Gray considers to be his enemies.

Still, nothing has damaged morale at the bureau as much as one of Gray's own innovations—the publicizing of his disciplinary actions. He terms it "airing the linen," but around the bureau these days the practice has earned him the nickname "Tattletale Gray."

Intelligence. Most of those sound like basic housecleaning problems that inevitably crop up when an organization of the size and complexity of the FBI loses the only chief it ever had. But the nagging problem that will not go away is Gray's tie with President Nixon. Whatever Hoover's flaws, no one could accuse him of playing partisan politics; he intended the bureau to be above such doings and made that ideal stick during his reign.

Gray left the Navy in 1960 to join the staff of Vice President Richard Nixon, and served on the Nixon campaign teams in 1960 and 1968. There have been disturbing indications that Gray is not the wholly apolitical administrator that he now claims to be. Back in 1969, when he joined the Health, Education and Welfare Department, he told a meeting of Administration appointees, "Do not retch or quiver when we insist that the preponderant major-

ity of our colleagues—political appointees—be members of our own party." He added: "Loyalty includes an avoidance of criticism of our leaders and of our colleagues. Criticism which is destructive in nature is cancerous—it will destroy us and our entire team."

Gray coached Richard Kleindienst in his testimony before the Senate Judiciary Committee during the I.T.T. controversy, and last summer, at the request of the White House, made campaign speeches for Nixon. He began his talks in Ohio after a presidential aide told him that the state was "crucially vital to our hopes in November." In September he ordered his agents to collect political intelligence for Nixon, and, within the bureau, defended his actions by simply shrugging: "Wouldn't you do that for the President?" Although the request came from a member of Nix-

PAUL CONKLIN



FBI'S L. PATRICK GRAY
Apolitical administrator?

on's staff, the White House said later that it was improper to give the assignment to the FBI.

An even pricklier matter is the ongoing Watergate bugging case and the White House anger about news leaks. Several agents complained that Gray's spot inspection of the Washington field office in search of the leaks was actually slowing down the Watergate investigation. Recently Gray transferred three FBI officials who pushed the Watergate investigation into the White House and presidential re-election committee. Two accepted the transfers. The third quit the bureau. Said one Washington agent: "I've been around here a long time, and no one has ever questioned my integrity. Now, because the White House is upset, my integrity has been challenged twice in one week."

Gray did relax Hoover's mandatory weight limits—then turned around and disciplined an agent for disobeying an

order to lose weight. On the other hand, he refused to censure an agent whose son had been involved in a drug scandal or to discipline an agent for delinquent reports on some 72 cases to which he was assigned. Said Gray sensibly: "I might have some overdue reports if I was handling 72 cases." He has also reduced some padded conviction statistics Hoover used to cite to make the bureau look good—although a drunken Indian arrested on a reservation may still end up in the FBI's crime figures.

Thus far, Nixon himself has had nothing but praise for Gray, but it remains to be seen whether the President will permanently give Gray the coveted chair.

FOREIGN RELATIONS

The Cuban Dilemma

For some months, Cuba's Premier Fidel Castro has been showing nearly as much distaste for Havana-bound hijackers as have American authorities. Last Nov. 10, after three men hijacked a Southern Airways jet and took it on a marathon flight to Cuba (TIME, Nov. 27), Castro ordered them jailed and called for broader measures to put the clamps on aerial piracy. With that, the U.S. and Cuba, through Swiss intermediaries, began negotiations that could lead to a mutual agreement to ensure that hijackers would face harsh punishment for their crime in both countries.

But the negotiations place the U.S. in a dilemma. For as a *quid pro quo* for any agreement, Castro insists on a promise that the U.S. will curb the activities of Cuban exile groups in Florida, which, he charges, have attacked Cuban coastline villages and fishing vessels and helped people escape from Cuba. That means that the U.S., which has always cherished its tradition of giving asylum, now must decide whether to turn back refugees from Cuba.

The American dilemma took on a certain urgency on Dec. 6, when three anti-Castro refugees arrived in Key West. Using a fishing knife and a pistol that would not shoot, the three forced two pro-Castro crewmen on a Cuban fishing boat to take them to Florida. It was clearly a hijacking, whatever the American sympathies in the case. The refugees were arrested, and for the first time since Castro came to power in 1959, anti-Castro Cubans were ordered to return to their native country. The Cubans appealed the deportation order and are now free in Florida on bond.

"If the price of a skyjacking accord with Castro is the deportation of three trusting men, then the price is too great," says one State Department staffer. An Administration official thinks that instead of deportation the three could be then given stiff jail sentences, which would probably satisfy the Castro government even if the jail terms were later shortened or suspended.